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OCT 15 2003

OFFICE OF PETITIONS

In re Application of
Berman et al
Application No. 10/666,538
Filed: September 19, 2003
Attorney Docket No. KING.005C1

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: DECISION GRANTING
: PETITION
:
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This is a decision on the petition under 37 CFR 1.10(d), filed October 2, 2003, requesting that the above-identified application be accorded a filing date of September 19, 2003, rather than the presently assigned filing date of September 12, 2003.

Applicants request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on September 19, 2003, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided, inter alia, a copy of Express Mail label No. EL981390484US bearing a handwritten "date-in" of September 12, 2003, and a USPS receipt stamp dated September 19, 2003. In further support, applicants provided a USPS sales receipt, which clearly shows that the package in question was accepted for deposit on September 19, 2003. The same Express Mail receipt number is shown to have been placed on the original application transmittal letter submitted with the application.

Further, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on September 19, 2003 at the Saint Paul, MN USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on September 19, 2003. Accordingly, the instant application is entitled to a filing date of September 19, 2003, and has been so accorded.

The petition is granted.

No petition fee is required and none has been charged.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Brian Hearn
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for Patent Examination Policy